

REMARKS

Claims 1 and 3-25 are pending in this application. By this Amendment, the specification and claims 1, 3-5, 8-9, 11-14, 16 and 22-23 are amended, claim 2 is canceled without prejudice or disclaimer and new claims 24-25 are added. Various amendments are made to the claims for clarity and are unrelated to issues of patentability.

The Office Action rejects claims 1-23 under 35 U.S.C. §102(e) by U.S. Patent 6,144,653 to Persson et al. (hereinafter "Persson"). The rejection is respectfully traversed.

Independent claim 1 recites forming a short message service (SMS) message including a parameter to be changed in a mobile telecommunication terminal to receive the SMS message and a password for a certification with a destination mobile telecommunication terminal, and transmitting the SMS message to change a pre-stored parameter that controls a performance of the mobile telecommunication terminal.

Persson does not teach or suggest all these features of independent claim 1. More specifically, the Office Action appears to assert that Persson discloses the forming of a short message service including a parameter to be changed in a mobile communication terminal and a password for certification at col. 23, lines 1-31 and col. 90, lines 10-23. However, col. 23, lines 1-31 relates to SMS data spanning several SMS frames and then changing the data provided on a broadcast SMS. There is no suggestion in this section relating to an SMS message including a parameter to be changed in a mobile telecommunications terminal to receive the SMS message. Additionally, Persson's col. 23, lines 1-30 does not relate to parameters of a terminal that will receive the SMS message. Furthermore, col. 90, lines 10-23 relates to a privacy indicator that

allows the sender to set a level of privacy of the message to be sent. This does not relate to a SMS message including a parameter to be changed in a mobile telecommunication terminal to receive the SMS message and a password for certification with a destination mobile telecommunication terminal as recited in independent claim 1.

Independent claim 8 recites receiving a short message service (SMS) message at the mobile telecommunication terminal. Independent claim 8 further recites the SMS message including a password of the mobile telecommunication terminal and a performance controlling parameter of the mobile telecommunication terminal to be changed. In addressing claim 8, the Office Action cites Persson's col. 50, lines 55-67 and col. 51, lines 1-64. However, these sections of Persson do not relate to a SMS message including a password and a performance controlling parameter of the mobile telecommunication terminal (that received the SMS message).

Additionally, independent 8 recites storing the performance controlling parameter instead of a pre-stored performance controlling parameter in the mobile telecommunication terminal that received the SMS message and applying the performance controlling parameter to the mobile telecommunication terminal that received the SMS message. The Office Action appears to cite Persson's col. 50, lines 55-67 and col. 51, lines 1-64. However, these sections do not relate to performances of a mobile telecommunication terminal that received the SMS message. Rather, these sections relate to information that may be communicated. This does not teach or suggest storing a performance controlling parameter instead of a pre-stored performance controlling parameter in the mobile telecommunication terminal that received the SMS message as recited in independent claim 8. This also does not teach or suggest applying the performance

controlling parameter to the mobile telecommunication terminal that received the SMS message as recited in independent claim 8. Accordingly, independent claim 8 defines patentable subject matter.

Still further, independent claim 16 also recites receiving a short message service message wherein a value for changing the performance controlling parameter is included as a special field and including the performance controlling parameter as a parameter of the mobile telecommunication terminal that received the SMS message. The Office Action's citation to numerous locations within Persson do not teach or suggest these features as they do not relate to a value for changing a performance controlling parameter included in a special field of a SMS message. Accordingly, independent claim 16 defines patentable subject matter.

Still further, independent claim 22 recites a CHARI field configured to contain a performance controlling parameter value to be provided to a mobile communication terminal to modify an operation of the mobile telecommunication terminal and a MSG-ENCODING field to indicate a kind of code used in the CHARI field. The Office Action's citation to Persson's col. 88, lines 1-67 and col. 90, lines 12-56 and col. 92, lines 45-66 do not teach or suggest these features as they do not relate to a performance controlling parameter value. Therefore, these sections do not suggest the claimed CHARI field and/or MSG-ENCODING field. Accordingly, independent claim 22 defines patentable subject matter.

For at least the reasons set forth above, each of independent claims 1, 8, 16 and 22 defines patentable subject matter. Each of the dependent claims depends from one of the independent claims and therefore defines patentable subject matter at least for this reason. In

addition, the dependent claims recite features that further and independently distinguish over the applied references.

For example, various claims such as dependent claims 3-5 relate to features of the password. Persson does not teach or suggest these features. More specifically, dependent claim 5 recites changing a stored parameter at the mobile telecommunication terminal when the password of the SMS message is identical to a password stored in a mobile telecommunication terminal. The Office Action states that Persson inherently teaches the parameters of the mobile telecommunication terminal change. The Office Action references Persson's col. 50, lines 5-43 and col. 90, lines 10-24. However, Persson does not inherently teach these features. The mere fact that a certain result or characteristic may occur or be present is not sufficient to establish inherency of that result or characteristic. See *In re Rijckaert*, 28 USPQ 1955, 1957 (Fed. Cir. 1993). The cited sections of Persson do not relate to changing a stored parameter when the password is identical. Applicant respectfully requests the Patent Office to show how the claimed features are inherently provided within Persson. Absent any showing, applicant respectfully submits that dependent claim 5 defines patentable subject matter at least for this additional reason.

Dependent claim 6 recites that the parameter to be changed controls a performance of the mobile telecommunication terminal. The Office Action states these features are inherently provided in Persson. Applicant respectfully disagrees as these features do not necessarily occur within Persson. The Office Action's citation to Persson's col. 50, lines 44-64 does not suggest these features. Applicant respectfully submits that these features are not inherently provided

within Persson, as alleged in the Office Action. Applicant respectfully requests the Patent Office to show how these features are inherently provided within Persson. Absent any showing, applicant respectfully submits that dependent claim 6 defines patentable subject matter at least for this additional reason.

Still further, dependent claim 7 recites storing the parameter to be changed in a memory of the mobile telecommunication terminal, and applying the parameter to the mobile telecommunication terminal. For at least similar reasons as set forth above, the applied references do not teach or suggest these features. Thus, dependent claim 7 defines patentable subject matter at least for this additional reason.

Additionally, dependent claim 24 recites that forming the SMS message comprises forming the SMS message at a mobile telecommunication provider or a mobile telecommunication terminal manufacturer. Further, dependent claim 25 recites changing an error of the mobile communication terminal based on the parameter to be changed included within the SMS message. The applied references do not teach or suggest these features. Thus, dependent claims 24 and 25 define patentable subject matter at least for these additional reasons.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and prompt allowance of claims 1 and 3-25 are earnestly solicited. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, David C. Oren, at the telephone number listed below.

Serial No. 10/659,400
Reply to Office Action of June 22, 2005

Docket No. P-0530

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
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